



## City of Seattle

Edward B. Murray, Mayor

### Department of Construction and Inspections

Nathan Torgelson, Director

## CITY OF SEATTLE ANALYSIS AND DECISION OF THE DIRECTOR OF THE SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS

**Application Number:** 3020508  
**Applicant Name:** Dante Palmaffy  
**Address of Proposal:** 5608 23rd Ave SW

### SUMMARY OF PROPOSED ACTION

Land Use Application to allow a two-story, 2,131 sq. ft. single family residence with an attached garage for two vehicles in an environmentally critical area.

The following approval is required:

**ECA Variance** – to allow a reduced front yard setback. (SMC 25.09.180.E.2.a)

**ECA Variance** – to reduce the steep slope area buffer. (SMC 25.09.180.E.2.b)

**ECA Variance** – to allow intrusion into the steep slope area. (SMC 25.09.180.E.2.c)

**SEPA DETERMINATION:** ☒ Exempt ☐ DNS ☐ EIS

☐ DNS with conditions

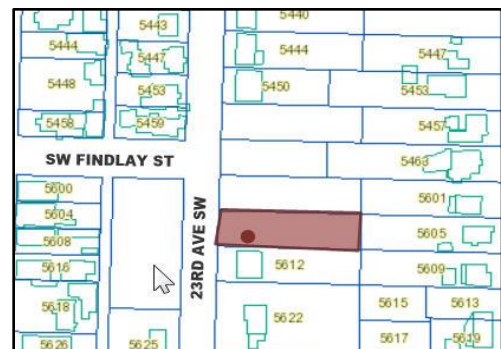
☐ DNS involving non-exempt grading or demolition or  
involving another agency with jurisdiction.

### BACKGROUND DATA

Site and Vicinity:

**Site Zoning:** Single Family 5,000 (SF 5000)

**Nearby Zones:** Lowrise 1 (LR1)(North)



SF 5000 (South)

SF 5000 (East)

SF 5000 (West)

Site Characteristics and Vicinity: The 10,862 square foot project site fronts 23<sup>rd</sup> Ave SW and is currently vacant. Similar to the other lots on the east side of 23<sup>rd</sup> Ave SW, the site slopes considerably from the east down to the west with the low point near the street and approximately 120 feet of the eastern portion of the site mapped as an ECA steep slope.

The majority of the area near the site is zoned Single Family (SF 5000), with the exception of a small pocket of Lowrise 1 (LR1) zoning directly to the north. Most homes on the east side of 23rd Avenue SW are sited in a similar fashion to the applicant's proposal with residences located near the street and front loaded parking. Residences are typically split-level style structures with entries raised above the street.

Description of Proposal: The applicant requests approval to build a 2,131 sq. ft. single-family residence with an attached garage within the steep slope buffer and steep slope Environmentally Critical Areas (ECA). A reduction of the front setback is requested to limit grading and development within the ECA. The allowed front setback for the property is 20 feet. The Director can grant a 25% exception to reduce intrusion into ECA buffers per SMC 25.09.280. This would allow a 15 foot setback. The applicant is requesting a further reduction down to 11.5 feet to minimize encroachment into the ECA steep slope and ECA steep slope buffer. The proposed home will follow the topography of the lot and general development pattern in the area with a two story structure, raised front entry, and daylight basement with a garage facing the west as the hillside descends. The applicant also submitted a building permit, 6452628, with the ECA variance application.

Public Comment: The public comment period ended on May 27, 2015. No public comments were received.

Environmentally Critical Areas (ECA): A majority of the site is mapped as ECA steep slope and ECA steep slope buffer with the exception of a portion along the western edge of the property.

Environmentally Critical Areas Regulations: General requirements and standards are described in Section 25.09.060 of the ECA ordinance (SMC Chapter 25.09). SMC Section 25.09.180 provides specific standards for all development on steep slopes and steep slope buffers on existing lots, including the general requirement that development shall be avoided in these areas whenever possible.

## **ANALYSIS – ECA VARIANCE**

The applicant has requested variances from three requirements of the environmentally critical areas ordinance: ECA Variance for a reduced front yard, ECA Variance to disturb a steep slope buffer, and ECA Variance to disturb a steep slope.

***SMC 25.09.180.E. Steep Slope Area Variance.***

***1. The Director may reduce the steep slope area buffer and may authorize limited intrusion into the steep slope area and steep slope buffer to the extent allowed in subsection E2 only when the applicant qualifies for a variance by demonstrating that:***

***a. the lot where the steep slope or steep slope buffer is located was in existence before October 31, 1992; and***

The subject lot existed prior to October 31, 1992 therefore this criterion has been met.

***b. the proposed development otherwise meets the criteria for granting a variance under Section 25.09.280B, except that reducing the front or rear yard or setbacks will not both mitigate the hardship and maintain the full steep slope area buffer.***

The applicant is seeking an 11.5 foot front setback where 20 feet is required. As shown by the topographic survey and site plan, a majority of the property is designated as an ECA steep slope or ECA buffer with the exception of a relatively small portion of the western edge of the site. Strict application of the steep slope standards would require avoidance of both the ECA steep slope area and ECA buffer, preventing reasonable development of the site even with reduced front yard setbacks. Reducing the front and rear yard setbacks would not both mitigate the hardship and maintain the full steep slope area buffer, as discussed in more detail below.

Criteria and responses for granting a variance found in SMC 25.09.280.B are discussed below.

***2. If any buffer reduction or development in the critical area is authorized by a variance under subsection E1, it shall be the minimum to afford relief from the hardship and shall be in the following sequence of priority:***

***a. reduce the yards and setbacks, to the extent reducing the yards or setbacks is not injurious to safety;***

The front setback has been reduced to 11.5 feet.

***b. reduce the steep slope area buffer;***

Because a majority of the site is encumbered by steep slope and steep slope buffer, a reduction in yards and setbacks would not result in a reasonably buildable area outside of the Environmentally Critical Area and reducing the steep slope buffer area would not afford relief from the hardship.

***c. allow an intrusion into not more than thirty percent (30%) of the steep slope area.***

The intrusion into the steep slope, including all site disturbances (construction impact area, access and utilities) is 123 sq. ft. of the 7,602 sq. ft. steep slope area, or 1.6% of the total steep slope area, according to the plans. The proposed development follows the sequence of priority and does not create an intrusion of more than 30% of the steep slope area therefore the proposal meets this criterion.

- 3. The Director may impose additional conditions on the location and other features of the proposed development as necessary to carry out the purpose of this chapter and mitigate the reduction or loss of the yard, setback, or steep slope area or buffer.***

The front setback reduction is not out of character with the neighborhood. Grading is minimized by the home's proposed siting and orientation. The proposed residence is designed to be minimally intrusive into the ECA and buffer, with a total steep slope ECA disturbance of 1.6%. Disturbed areas will be required to be re-vegetated with native vegetation as an ECA code requirement. A non-disturbance area covenant is required by the ECA code and will be required for all areas not include in the 1.6% disturbance area.

Conditions requiring a landscape plan for revegetation and a non-disturbance covenant insure site integrity after the home has been constructed. Grading and drainage will be reviewed with the associated construction permit, 6452628. No additional mitigation or conditions are warranted.

***SMC 25.09.280.B. Yard and setback reduction and variance to preserve ECA buffers and riparian corridor management areas.***

***The Director may approve a yard or setback reduction greater than five feet (5') in order to maintain the full width of the riparian management area, wetland buffer or steep-slope area buffer through an environmentally critical areas yard or setback reduction variance when the following facts and conditions exist:***

- 1. The lot has been in existence as a legal building site prior to October 31, 1992.***

The subject lot existed prior to October 31, 1992 therefore this criterion has been met.

- 2. Because of the location of the subject property in or abutting an environmentally critical area or areas and the size and extent of any required environmentally critical areas buffer, the strict application of the applicable yard or setback requirements of Title 23 would cause unnecessary hardship; and***

As discussed in SMC 25.09.180.E.1.b above, when combining the size and location of the ECA steep slope and steep slope buffers on-site with the strict application of the applicable yard requirements, the resulting building area is an irregular, narrow L-shaped area that is less than ten feet deep and approximately 45 long. Due to the ECA steep slope and buffer, strict application of the applicable yard setbacks would cause unnecessary hardship.

- 3. The requested variance does not go beyond the minimum to stay out of the full width of the riparian management area or required buffer and to afford relief; and***

This criterion is not applicable since there is no riparian management area or required (riparian) buffer on-site.

- 4. The granting of the variance will not be injurious to safety or to the property or improvements in the zone or vicinity in which the property is located; and***

The applicant has provided a geotechnical report (“Geo Group Northwest, Inc., dated September 9, 2015) which was reviewed by Seattle DCI’s geotechnical engineer and approved on September 30, 2015. Drainage review will be conducted during review of the associated building permit.

Granting the variance to minimally intrude into the steep slope areas will not be injurious to safety, property, or improvements in the zone or vicinity.

- 5. The yard or setback reduction will not result in a development that is materially detrimental to the character, design and streetscape of the surrounding neighborhood, considering such factors as height, bulk, scale, yards, pedestrian environment, and amount of vegetation remaining; and***

The applicant is seeking a front yard reduction from the required 20 foot front yard and is proposing a front yard of 11.5’. The requested variance will provide an adequate front yard and will not result in a home that is out of character with the neighborhood with respect to height, bulk, scale, yards, and pedestrian environment. Properties on the east side of 23<sup>rd</sup> Ave SW within the vicinity of the subject property are topographically similar. Many of the existing homes, specifically to the north of the site where similar topographic conditions exists, are generally located closer to the street and oriented in a north/south fashion similar to the applicant’s proposed design. There is no alley, so parking is front loaded and is a combination of attached garages and surface parking in front of the homes. Mature vegetation covers much of the site. The yard reduction will not directly impact the amount of vegetation remaining as a majority of the lot will remain undeveloped.

- 6. The requested variance would be consistent with the spirit and purpose of the environmentally critical policies and regulations.***

The environmentally critical policies and regulations were created to protect ecological functions, prevent erosion and protect the public health, safety and welfare in landslide-prone (including steep slope) areas, and to permit landowners reasonable development and avoid development that causes injury to persons, property, public resources or the environment. The proposal is for a single-family residence on a site with extremely limited buildable area available for construction outside of the ECA steep slope, steep slope buffer, and required yards and therefore the a variance is needed to provide relief necessary to allow reasonable development of the property. The requested variance would be consistent with the spirit and purpose of the environmentally critical policies and regulations.

### **ECA CODE REQUIREMENTS**

- The owner and/or responsible party shall provide a signed and notarized ECA Covenant to the Land Use Planner for recording. Addendum A of the covenant shall include a site plan with hatching to indicate the area identified as the non-disturbance area by the survey and install the permanent visible ECA markers established at the edge of the non-disturbance area ECA (in accordance with instructions contained in Director’s Rule 4-2007).

- A tree and revegetation landscape plan prepared by a landscape professional to include mitigation for proposed vegetation removal, consistent with SMC 25.09.180.D and 25.09.320.B must be reviewed and approved prior to issuance of the MUP. This revegetation landscape plan will be integrated into building permit 6452628.

## **DECISION – ECA VARIANCE**

**GRANTED.**

## **CONDITIONS OF VARIANCE APPROVAL**

None.

BreAnne McConkie, Land Use Planner Date: July 14, 2016  
Department of Construction and Inspections

BM:bg

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## **IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT**

### Master Use Permit Expiration and Issuance

The appealable land use decision on your Master Use Permit (MUP) application has now been published. At the conclusion of the appeal period, your permit will be considered “approved for issuance”. (If your decision is appealed, your permit will be considered “approved for issuance” on the fourth day following the City Hearing Examiner’s decision.) Projects requiring a Council land use action shall be considered “approved for issuance” following the Council’s decision.

The “approved for issuance” date marks the beginning of the **three year life** of the MUP approval, whether or not there are outstanding corrections to be made or pre-issuance conditions to be met. The permit must be issued by Seattle DCI within that three years or it will expire and be cancelled. (SMC 23-76-028) (Projects with a shoreline component have a **two year life**. Additional information regarding the effective date of shoreline permits may be found at 23.60.074.)

All outstanding corrections must be made, any pre-issuance conditions met and all outstanding fees paid before the permit is issued. You will be notified when your permit has issued.

Questions regarding the issuance and expiration of your permit may be addressed to the Public Resource Center at [prc@seattle.gov](mailto:prc@seattle.gov) or to our message line at 206-684-8467.